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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	Case No. CR 15- 579 EMC
	)	
Plaintiff,	)	<del>PROPOSED</del>
v.	)	
	)	<b>DETENTION ORDER</b>
EUTIMIO REYNA CERON,	)	
	)	
Defendant.	)	
	)	

**I. BACKGROUND**

Defendant Eutimio Reyna Ceron is charged in an indictment with violations of 21 U.S.C. § 846 (conspiracy to distribute and possess with intent to distribute heroin and methamphetamine) and 21 U.S.C. § 841 (possession with intent to distribute heroin and 50 grams or more of methamphetamine). The government moved for Defendant's detention pursuant to the Bail Reform Act, and asked for a hearing as permitted by 18 U.S.C. § 3142(f). Pre-Trial Services prepared a bail study. The parties appeared on December 15, 2015, December 17, 2015 and December 21, 2015 for a bail hearing. Defendant was present on each occasion, represented by the Federal Public Defender. At the December 21, 2015 hearing, the Defendant waived his right to seek release. After that hearing, the Defendant retained counsel. On January 27, 2016, the Defendant re-asserted his right to seek release and the

1 parties appeared before the Court for a hearing. For the reasons stated below, the Court orders that  
2 Defendant be detained.

## 3 II. LEGAL ANALYSIS

4 The Bail Reform Act, 18 U.S.C. § 3142(f), requires that the government prove by a  
5 preponderance of the evidence that there are no conditions that reasonably will assure the Defendant's  
6 appearance as required, and that the government prove by clear and convincing evidence that there are  
7 no conditions which reasonably will assure the safety of the community. In cases such as this, where  
8 there is probable cause to believe that the Defendant committed a violation of the Controlled Substances  
9 Act and faces a maximum of 10 years or more in prison, there is a rebuttable presumption that no  
10 condition or combination of conditions reasonably will assure the Defendant's appearance as required  
11 and the safety of the community. 18 U.S.C. § 3142(e)(3)(A). The presumption of detention shifts the  
12 burden of production to the defendant; the ultimate burden of persuasion remains with the government.  
13 See United States v. Hir, 517 F.3d 1081, 1086 (9th Cir. 2008). The presumption retains evidentiary  
14 weight, id., and the defendant must show "some credible evidence" to rebut it, United States v. Chen,  
15 820 F. Supp. 1205, 1207 (N.D. Cal. 1992). Close cases should result in release: "[t]o give effect to the  
16 principle that doubts regarding the propriety of release be resolved in favor of the defendant, the court is  
17 to rule against detention in close cases." Chen, 820 F. Supp. at 1208 (citing United States v. Motamedi,  
18 767 F.2d 1403, 1405-06 (9th Cir. 1985)).

19 In evaluating whether pretrial release is appropriate, the Court considers (1) the nature and  
20 circumstances of the offense, (2) the weight of the evidence, (3) the history and characteristics of the  
21 person (including his character, physical and mental condition, family ties, employment, financial  
22 resources, length of residence in the community, community ties, past conduct, history relating to drug  
23 and alcohol abuse, criminal history, or record concerning appearance at court proceedings), and (4) the  
24 nature and seriousness of the danger to any person or the community posed by the person's release. 18  
25 U.S.C. § 3142(g); Motamedi, 767 F.2d at 1407. Bail hearings generally proceed by proffer, and the  
26 rules of evidence do not apply. 18 U.S.C. § 3142(f).

27 In this case, the government proffered that the Defendant ran a heroin and methamphetamine  
28 distribution business in and around Santa Rosa, California. The government proffered that the

1 Defendant distributed approximately 1 kilogram of heroin per week, as well as methamphetamine, that  
2 he had multiple persons who worked for him delivering drugs, and that he had continued to distribute  
3 drugs even after becoming aware that law enforcement were investigating him. The government also  
4 proffered that the Defendant was intercepted on four federal wiretaps and that those wiretaps revealed  
5 the following: Defendant spent all day, every day, dispatching couriers to deliver drugs to customers;  
6 Defendant wired large sums of money to Mexico using aliases and fake names and breaking the wires  
7 down into small amounts to avoid identification and reporting requirements; Defendant maintained  
8 multiple bank accounts in other persons' names in Mexico and those bank accounts contained a  
9 significant amount of money; Defendant maintained property in Mexico; Defendant had connections to  
10 "coyotes" who smuggle people across the U.S.-Mexico border; and, Defendant used at least two  
11 different names. Further, the government proffered evidence indicating that Defendant's proposed  
12 sureties either were not suitable because they were implicated in his wrongdoing, or were not able to  
13 exert sufficient moral suasion over him to ensure he would appear as directed if released on bail. The  
14 Court also understands that, if convicted of conspiracy to distribute heroin and methamphetamine,  
15 Defendant faces a minimum of 10 years in prison. And the Court understands that the Defendant is  
16 subject to an immigration hold and appears to be subject to deportation following any period of  
17 incarceration. The government also proffered that the Defendant did not appear to own any property  
18 here. Pre-Trial Services recommended detention on the ground that the Defendant did not appear to  
19 have strong ties to the community and did not have any viable sureties.

### 20 **III. CONCLUSION**

21 In light of the Defendant's history, the nature and circumstance of the instant offense and the  
22 weight of the evidence, the Court finds that the Defendant has not rebutted the presumption that he  
23 presents a danger to the community and/or poses a risk of non-appearance, and that there are no  
24 conditions or combinations of conditions which reasonably would assure the Defendant's appearance or  
25 the safety of the community if the Court released the Defendant. These findings are without prejudice to  
26 the Defendant's seeking release if he presents new or different information to the Court, including  
27 specifically, information about the Defendant's assets in Mexico, his proposed sureties' possible  
28 involvement in the alleged crimes, whether one of his brothers is in the United States legally and, if not,

1 what effect that has on his suitability as a surety, and finally, where the Defendant would live if he were  
2 released. For the reasons set forth above, Defendant shall remain committed to the custody of the  
3 Attorney General for confinement in a corrections facility separate, to the extent practicable, from  
4 persons awaiting or serving sentences or being held in custody pending appeal. Defendant shall be  
5 afforded reasonable opportunity for private consultation with counsel. On order of a court or the United  
6 States, or on request of an attorney for the Government, the person in charge of the corrections facility in  
7 which Defendant is confined shall deliver Defendant to a United States marshal for the purpose of an  
8 appearance in connection with a court proceeding.

9 IT IS SO ORDERED.

10 DATED: February 10, 2016

  
HON. SALLIE KIM  
United States Magistrate Judge